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REMARKS

This Response is offered in reply to the office action of April 7, 2003.

In paragraph 1 of the office action, the drawings are objected to in that reference numeral 200 is missing from the figures. Applicant encloses herewith a Letter To Official Draftsperson with a new Figure 8 that includes reference numeral 200 and its lead line. Reconsideration of the objection to the drawings is requested.

In paragraph 2 of the office action, the subject matter of page 41 is objected to. Applicant has deleted that subject matter from page 41 and inserted it on page 1 between the title and the first paragraph as suggested by the examiner. Reconsideration is requested.

In paragraph 3 of the office action, claims 3, 9, 13, 20, and 25 are rejected under 35 USC 112, 2nd paragraph as indefinite. Applicant has amended the claims in a manner believed to overcome the Section 112 rejection. Reconsideration of the rejection is requested.

In paragraph 6 of the office action, claims 1-5, 11, 13, 26, 37, 39, 40, 41, 42, and 46 are rejected under 35 USC 102(b) or 103(a) over WO 88/00511 (hereafter WO reference).

Applicant believes the pending claims are allowable over the WO reference. Firstly, the abstract of the WO reference describes a machine tool having a spindle motor with an output shaft 10 for rotating a spindle. The output shaft 10 includes a toothed plate 12 and a toothed plate 14 that cooperate with rotational speed sensing element 16 and rotational position sensing element 18 for detecting rotational speed and rotational position of the output shaft 10.

The WO reference thus involves a machine tool spindle which is rotated by a spindle motor via output shaft 10. The WO reference does not disclose or suggest Applicant's claimed monitoring device for checking for a predefined position of a body or for checking for the presence of a body. The WO reference does not disclose or suggest Applicant's claimed monitoring device having a pivotal checking element.

~ not in claim
inherent

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Secondly, the WO reference discloses a sensing device for detecting the rotational speed and rotational position of the output shaft 10. However, the WO reference fails to disclose or suggest Applicant's monitoring device of pending claim 1 for checking for a predefined position of a body or for checking for the presence of a body, wherein the monitoring device includes a pivotal checking element; a motor for driving the checking element; and a control device for controlling the pivotal movement of the checking element wherein the control device specifies the pivotal position of the checking element in dependence on the time and wherein the pivotal position of the checking element relative to a starting position is known at every time in the pivotal movement of the checking element. The sensing device of the WO reference does not control the movement of the output shaft 10 but only detects its rotational speed and position.

The WO reference thus fails firstly to disclose or suggest a monitoring device having a checking element for checking for a predefined position of a body or for checking for the presence of a body, and secondly a monitoring device having a control device for controlling the pivotal movement of a checking element wherein the control device specifies the pivotal position of the checking element in dependence on the time and wherein the pivotal position of the checking element relative to a starting position is known at every time in the pivotal movement of the checking element. Applicant's pending claim 1 thus is believed to distinguish over the cited WO reference.

The same is true of each of depending claims 2-3, 5, 11, 13, 26, 37, 39, 40, 41, 42, and 46. The features of these claims are not disclosed by or suggested in the WO reference. For example, claims 2 and 3 recite a control feature where pivotal movement of the checking element is controlled in accordance with a predefined position-time course in a manner not disclosed by or suggested in the WO reference. As mentioned above, the WO reference does not even have a checking element. Claim 5 involves a predefined time for pivotal movement between first and second pivotal positions of the checking element in a manner not disclosed by or suggested in the WO reference.

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Claim 11 recites a control value that is a pivotal position increment or decrement not disclosed by or suggested in the WO reference. Claim 13 recites control features not disclosed by or suggested in the WO reference. Claim 26 recites an angle transmitter of Applicant's monitoring device that is not disclosed by or suggested in the WO reference. Claims 37, 39, 40-42 and 46 recite seal features of Applicant's monitoring device that is not disclosed or suggested by the WO reference.

In paragraph 7 of the office action, claims 6-10, 14, 15, 16-19, 20, 23, and 34 are rejected under 35 USC 103(a) as obvious in view of WO 88/00511.

As pointed out above, the WO reference involves a machine tool spindle which is rotated by a spindle motor via output shaft 10 and not a monitoring device for checking for a predefined position of a body or for checking for the presence of a body as set forth in Applicant's claims. The WO reference does not disclose or suggest Applicant's claimed monitoring device having a pivotal checking element to this end.

The WO reference discloses a sensing device for detecting the rotational speed and rotational position of the output shaft 10, but fails to disclose or suggest Applicant's claimed monitoring device for checking for a predefined position of a body or for checking for the presence of a body, wherein the monitoring device includes a pivotal checking element; a motor for driving the checking element; and a control device for controlling the pivotal movement of the checking element wherein the control device specifies the pivotal position of the checking element in dependence on the time and wherein the pivotal position of the checking element relative to a starting position is known at every time in the pivotal movement of the checking element. The sensing device of the WO reference does not control the movement of the output shaft 10 but only detects its rotational speed and position.

With respect to claims 6-8, the WO reference fails to suggest the fixed time recited for movement between positions set forth in these claims. The same is true of the predefined

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position-time curve and control value of a time increment as set forth in claims 9 and 10, respectively. The same is true with respect to features of claims 14-20 and 23 of Applicant's monitoring device that is not suggested by the WO reference. Claim 34 recites seal features of Applicant's monitoring device that is not suggested by the WO reference.

Applicant acknowledges the indicated allowable subject matter of claims 12, 21, 22, 24, 27-33, 35, 36, 38, 43-35 and 47-53 set forth in paragraph 8 of the office action. Applicant has not rewritten these claims as they are believed to depend from allowable claims.

Applicant encloses a Supplemental IDS for the examiner's attention.

Applicant believes the pending claims are in allowable condition, and action to that end is requested.

Respectfully submitted,



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Enclosure: Supplemental IDS and Letter To Official Draftsperson
and Postal Card

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Arlington, VA 22313-1450 on July 8, 2003.



Edward J. Timmer